

BEFORE THE DEPARTMENT OF ADMINISTRATION
OF THE STATE OF MONTANA

In the matter of the proposed amendment)	NOTICE OF PROPOSED
of ARM 2.59.401 regarding credit union)	AMENDMENT
supervisory and examination fees)	
)	NO PUBLIC HEARING
)	CONTEMPLATED

TO: All Concerned Persons

1. On December 8, 2008, the Division of Banking and Financial Institutions proposes to amend the above-stated rule.

2. The Department of Administration, Division of Banking and Financial Institutions, will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the Division of Banking and Financial Institutions no later than 5:00 p.m. on December 1, 2008, to advise us of the nature of the accommodation that you need. Please contact Christopher Romano, Division of Banking and Financial Institutions, P.O. Box 200546, Helena, MT 59620-0546; telephone (406) 841-2928; TDD (406) 444-1421; facsimile (406) 841-2930; e-mail to cromano@mt.gov.

3. The rule proposed to be amended provides as follows, stricken matter interlined, new matter underlined:

2.59.401 CREDIT UNIONS - SUPERVISORY AND EXAMINATION FEES

(1) A credit union means any credit union other than a corporate credit union.

(2) A corporate credit union is a credit union formed primarily for the purpose of serving other credit unions.

(3) (4) The following annual supervisory fees for both credit unions and corporate credit unions will be assessed upon the December 31 total assets of each year and become due and payable on or before February 15 of the next succeeding year.

(a) Credit unions will be assessed based upon the December 31 total assets of each year.

(b) Corporate credit unions will be assessed based upon the average of the quarterly total assets as reported on the March 31, June 30, September 30, and December 31 National Credit Union Administration Form 5310 report.

Total Assets

Fee

\$2,500,000 or less

0.00030 x total assets

Over \$2,500,000, but not
over \$10,000,000

\$750 plus 0.000225 x total assets
in excess of \$2,500,000

Over \$10,000,000, but not over \$50,000,000	\$2,437.50 plus 0.0001425 x total assets in excess of \$10,000,000
Over \$50,000,000, but not over \$100,000,000	\$8,137.50 plus 0.00008250 x total assets in excess of \$50,000,000
Over \$100,000,000, but not over \$250,000,000	\$12,262.50 plus 0.00007850 x total assets in excess of \$100,000,000
Over 250,000,000	\$24,037.50 plus 0.00007500 x total assets in excess of \$250,000,000

(2) through (5) remain the same, but are renumbered (4) through (7).

AUTH: 32-3-201, MCA
IMP: 32-3-201, MCA

STATEMENT OF REASONABLE NECESSITY: Corporate credit union assets vary quickly and substantially throughout the year. The total assets of a corporate credit union often increase at year end to a level far greater than levels at any other time during the year, but this increase is usually temporary. Basing an annual assessment only on year-end assets can unfairly penalize a corporate credit union for this short term increase in assets. The department is seeking to charge an equitable assessment by basing the assessment on the average total assets throughout the year. The National Credit Union Form 5310 provides a readily available method for monitoring the assets of a corporate credit union.

The proposed amendment to ARM 2.59.401 will affect the annual supervisory fee remitted to the department by Treasure State Corporate Credit Union (Treasure State), which is the only state-chartered corporate credit union. It is impossible for the department to estimate this fiscal impact because it cannot predict the asset size of Treasure State. The asset size of Treasure State is subject to great fluctuation because it serves as a depository and lender to other credit unions. On any given day other credit unions may deposit, withdraw, or borrow funds from Treasure State.

4. Concerned persons may present their data, views, or arguments concerning the proposed amendment in writing to Kelly O'Sullivan, Legal Counsel, Division of Banking and Financial Institutions, P.O. Box 200546, Helena, MT 59620-0546; faxed to the office at (406) 841-2930; e-mailed to kosullivan@mt.gov, and must be received no later than 5:00 p.m., December 5, 2008.

5. If persons who are directly affected by the proposed amendment wish to present their data, views, or arguments orally or in writing at a public hearing, they must make a written request for a hearing and submit the request along with any comments they have to Kelly O'Sullivan, Legal Counsel, Division of Banking and Financial Institutions, P.O. Box 200546, Helena, MT 59620-0546; faxed to the office

at (406) 841-2930; e-mailed to kosullivan@mt.gov, and must be received no later than 5:00 p.m., December 5, 2008.

6. If the Division of Banking and Financial Institutions receives requests for a public hearing on the proposed amendment from either 10% or 25, whichever is less, of those who are directly affected by the proposed amendment, from the appropriate administrative rule review committee of the Legislature, from a governmental agency or subdivision, or from an association having no less than 25 members who will be directly affected, a hearing will be held at a later date. Notice of the hearing will be published in the Montana Administrative Register. Ten percent of those persons directly affected has been determined to be one based on the number of state-chartered credit unions as of publication of this notice.

7. An electronic copy of this proposal notice is available through the department's web site at <http://doa.mt.gov/AdministrativeRules.asp>. The department strives to make the electronic copy of the notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that if a discrepancy exists between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the department works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

8. The Division of Banking and Financial Institutions maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this division. Persons who wish to have their name added to the mailing list shall make a written request that includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding division rulemaking actions. Such written requests may be mailed or delivered to Christopher Romano, Division of Banking and Financial Institutions, 301 S. Park, Ste. 316, P.O. Box 200546, Helena, MT 59620-0546; faxed to the office at (406) 841-2930; e-mailed to cromano@mt.gov; or may be made by completing a request form at any rules hearing held by the department.

9. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

By: /s/ Janet R. Kelly
Janet R. Kelly, Director
Department of Administration

By: /s/ Michael P. Manion
Michael P. Manion, Rule Reviewer
Department of Administration

Certified to the Secretary of State October 27, 2008.